

MELANIE KENNEDY,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social
Security,

Defendant.

Currently before the Court is the motion of Defendant, the Commissioner of Social Security, to reverse and remand this Social Security disability case pursuant to sentence four of section 205(g), 42 U.S.C. § 405(g). This action was referred to the undersigned United States Magistrate Judge under 28 U.S.C. § 636(b) for recommended disposition.

Following a hearing on Plaintiff's application for disability insurance benefits and supplemental security income, an Administrative Law Judge ("ALJ") found that Plaintiff was not disabled. The decision of the ALJ became the final decision of the Commissioner, and Plaintiff sought judicial review of the adverse ruling. The Commissioner now states that agency counsel asked the Appeals Council of the Social Security Administration to reconsider the Commissioner's decision, and that upon review, the Appeals Council determined that remand was appropriate for further consideration of Plaintiff's claims because the ALJ had not given Plaintiff an opportunity to respond to

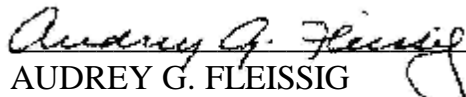
evidence obtained by the ALJ after the hearing. The Commissioner asserts that upon remand by the Court, the Appeals Counsel will remand the case to the ALJ with directions to afford Plaintiff an opportunity to respond to the additional evidence. Plaintiff's counsel has represented to the Court that Plaintiff has no objections to the Commissioner's motion to reverse and remand.

Title 42 U.S.C. § 405(g) provides, "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The Court finds that the Commissioner has made a sufficient showing of good cause to reverse and remand this case for further action.

Accordingly,

IT IS HEREBY RECOMMENDED that Defendant's motion to reverse and remand the case to the Commissioner for further consideration be **GRANTED**. [Doc. #16]

The parties are advised that they have ten (10) days to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained.


AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 20th day of May, 2009.